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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,320	02/02/2001	Helmuth Gabl	ANDPAT/150/US	9342

7590 10/25/2002

Alix, Yale & Ristas, LLP
750 Main Street
Hartford, CT 06103-2721

EXAMINER

SAVAGE, MATTHEW O

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 10/25/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-9

Office Action Summary

Application No.

09/776,320

Applicant(s)

GABL ET AL.

Examiner

Matthew O Savage

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 499,154.

With respect to claim 1, '154 discloses a plurality of screen rods 3 each having side walls 7, 8 (see FIG. 2), at least one of the side walls defining at least one protrusion 36, at least one rod bearing support element 1' having a shape that is complementary to the protrusion of the rod, wherein each protrusion of the rod is received within a recess of the supporting element. '154 fails to specify the limitation of the protrusions having a circular or elliptic shape, however, such changes in shape are considered obvious absent any persuasive evidence that such configurations are structurally significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)). '154 discloses the protrusions 36 as having a radius r (e.g., at opposite sides of the protrusion) but fails to specify the range of $.1\text{mm} < r < 2\text{mm}$, however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

With respect to claim 3, '154 discloses each of the rods as having an embedded end with at least one of the rods having a plurality of protrusions 36, 36'. '154 fails to

specify the protrusions as being positioned at a distance $.1\text{mm} < h_1 < 6\text{mm}$, however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

Regarding claims 4 and 5, '154 fails to specify the limitation of the rods as having three or more protrusions received within recesses in one side wall of the supporting elements as recited in claim 4, or the limitation of the first sidewall as having a different number of protrusions than the second sidewall as recited in claim 5, however, the mere duplication of parts / number of protrusions is not considered to be patently significant unless a new and unexpected result is produced (see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

Concerning claim 6 '154 fails to specify the limitation of the supporting elements as having a T-shape as recited in claim 6, however, such changes in shape are considered obvious absent any persuasive evidence that such configurations are structurally significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)).

With respect to claim 7, '154 discloses each of the rods as having a total height H and an embedded portion protruding into the supporting element having a height h but fails to specify the ratio of h to H as being greater than 0.5, however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

Regarding claim 8, '154 discloses the rods as having an embedded portion pressed together with the supporting element (e.g., due to the clamping force exerted upon the rods by the supporting elements).

Applicant's arguments filed 8-13-02 have been fully considered but they are not persuasive.

Applicant argues that the EP '154 reference fails to disclose protrusions and recess having a complementary shape, however, it is held that Figures 2-3 of the reference discloses such an arrangement. Applicant argues that the circular or elliptical shapes recited in claim 1 are structurally significant since such shapes lead to a more even area pressure, however, the rejection is maintained since applicant has not provided evidence to the effect that such shapes would function any better than the rounded/semi-elliptical/circular shape shown Figures 2-3 of the '154 reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. Savage

Matthew O Savage
Primary Examiner
Art Unit 1723

mos
October 24, 2002